

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

vs.

CENTURION CAPITAL  
MANAGEMENT, INC., and TERRY  
MICHAEL SVEJDA,

Defendants.

8:21-CV-311

MEMORANDUM AND ORDER

The parties have, by email, lodged objections to the plaintiff's deposition designations, defendants' counter-designations, and defendant's "rule of completeness" designations for the depositions of Shane Beckman, Gerald Kessenich, and Mark Kessenich.

The Court notes that the plaintiff seems to have lodged objections to counter-designations that, on the Court's copy of the depositions, weren't actually highlighted as counter-designations. It appears that the plaintiff may have intermingled objections to the defendants' designations with objections to the counter-designations. The Court is, at this point, unsure what the parties intended or understood with respect to adducing deposition testimony. The Court was provided with a separate batch of depositions by each side, including many of the same depositions, but with different testimony highlighted as designations and counter-designations in each.<sup>1</sup>

The Court had inferred, from that among other things, that the parties intended to present their designated deposition testimony separately—that is, that the plaintiff would present its designations in its case-in-chief (along with the defendants' counter-designations for that testimony), and then the defendant would present its designations in its case-in-chief (along with the plaintiff's counter-designations), even if that meant reading from the same witness's deposition twice. But the intermingling of objections to the designations and counter-designations raises questions about whether the parties and the Court are on the same page.

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<sup>1</sup> That's not how it usually works: The Court is accustomed to getting a single set of depositions with all the designations and counter-designations from both sides included.

The parties should be prepared to explain to the Court, tomorrow morning, what they intend to present and when they intend to present it. The Court has ruled, as best it can determine, on the objections that it has before it with respect to these three witnesses.

The Court rules as follows:

Shane Beckman

*Defendants' objections*

All	Overruled
26:10-27:2	Overruled. 27:1-7 should be included.
27:8-16	Overruled
32:11-33:5	Overruled
35:2-36:1	Overruled
39:24-40:19	Overruled
70:4-9	Overruled
70:19-72:18	Overruled
77:14-18	Overruled

*Plaintiff's objections*

78:6-78:10	Overruled
80:12-81:6	Overruled
85:6-85:13	Overruled
86:25-87:15	Sustained as to 87:8-15, otherwise overruled
91:2-92:7	Overruled
96:6-96:10	Sustained
96:21-97:12	Overruled
103:13-103:17	Overruled
104:7-104:11	Overruled

Gerald Kessenich

*Defendants' objections*

54:16-55:22	Overruled
57:06-58:25	Overruled. 56:2-14 and 64:21-65:4 should be included.
84:8-13	Overruled
84:25-85:14	Overruled
88:14-18	Overruled
115:6-11	Overruled. 115:12-116:12 should be included.
125:21-23	Sustained

126:17-22	Overruled
141:03-10	Overruled. 141:11-142:4, 142:16-143:5, 144:15-145:23, and 142:5-142:15 should be included.

*Plaintiff's objections*

101:13-104:3	Overruled
105:25-106:8	Sustained
114:8-114:20	Overruled
119:9-119:16	Sustained
123:1-6	Overruled
124:1-125:8	Overruled

Mark Kessenich

*Defendants' objections*

52:20-53:06	Overruled
53:13-19	Overruled
53:07-54:04	Overruled
55:07-58:07	Overruled
87:20-88:9	Overruled


*Plaintiff's objections*

111:20-112:11	Sustained
115:18-116:21	Overruled
118:15-118:19	Sustained
121:18-122:9	Sustained
134:8-134:13	Overruled

IT IS SO ORDERED

Dated this 31st day of March, 2024.

BY THE COURT:

  
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John M. Gerrard  
Senior United States District Judge